THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.15888 OF 1997

DATED: 05-02-2007

Between :

1. Morsu Gopamma and 4 others. .... Petitioners

And

1. District Collector, Nalgonda District.,
   And 2 others. ... Respondents

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ORDER :

The 1st petitioner is the mother and the petitioners 2 to 5 are her children. They are the legal heirs of one Musalaiah who was assigned 20 guntas of land in Sy.No.358/8 of Nakrekal Village & Mandal, Nalgonda District for agricultural purpose vide proceedings dated 13-1-1977 by the then Tahsildar. It is stated that after the death of the assignee Musalaiah, the petitioners have been continuing in possession and enjoyment of the said land and eking out their livelihood by cultivating the same. It is claimed that during the lifetime of Musalaiah the land was also mutated in his favour in the year 1977 itself. While so, the 3rd respondent – Mandal Revenue Officer, Nakrekal issued a notice dated 20-3-1988 proposing to cancel the patta granted in favour of late Musalaiah on the ground of alleged violation of the terms and conditions of patta. Aggrieved by the same, W.P.No.5071 of 1998 was filed and the same was disposed of by this Court on 12-6-1996 with a direction to the respondents to take appropriate steps after considering the explanation of the petitioners therein. Pursuant thereto, the 3rd respondent called upon the petitioners to submit their explanation and the same was submitted on 24-4-1997 opposing the proposed cancellation of patta on several grounds. Thereafter, the impugned order dated 25-6-1997 came to be passed by the 3rd respondent cancelling the patta certificate granted to Musalaiah apart from 7 other similarly situated assignees. The said order is under challenge in this writ petition.

I have heard the learned Counsel for both the parties and perused the material on record.

It is primarily contended by the learned Counsel for the petitioners that under Section 166 of the Andhra Pradesh (T.A.) Land Revenue Act, 1317-F the power of review can be exercised only after granting an opportunity of being heard to the opposite party. It is contended that since no such opportunity was granted the impugned order is arbitrary, illegal and liable to be set aside on that ground alone.

It is to be noted that the fact that late Musalaiah was granted assignment by order dated 13-1-1977 is not in dispute. The impugned order shows that the order of assignment was reviewed invoking the powers under Section 166 of Andhra Pradesh (T.A.) Land Revenue Act, 1317-F (for short, 'the Act') on the ground that the land in question being tank-bed lands are not available for assignment as per G.O.Ms.No.1406, dated 28-7-1958.

However, in the show-cause notice, it was alleged that the assignees had violated the terms and conditions of the assignment and that the lands were required for public purposes namely construction of Government Offices since the same are situated on the National Highway.

The Specific plea of the petitioners that they were not put on notice that the assignment was sought to be reviewed on the ground that the assignment itself was irregular could not be contradicted by the respondents.

Nothing could be placed before this Court by the respondents to show that the show-cause notice which had preceded the impugned order was in conformity with the requirement of opportunity as provided under Section 166 of the Act.

In the circumstances, the impugned order which is not only in violation of mandatory provisions of Section 166 of the Act, but also not in conformity with the principles of natural justice is hereby set

aside and the Writ Petition is disposed of leaving it open to the respondents to initiate fresh proceedings following due process of law.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 05-2-2007

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